

REISSUE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Leonard H. Bieman

Serial No.: 09/111,978

Filed: July 8, 1998

Docket: 139.045USR

Title: SCANNING PHASE MEASURING METHOD AND SYSTEM FOR AN
OBJECT AT A VISION STATION

9/Declust
G. Stenz
4-58-00

SUPPLEMENTAL DECLARATION OF INVENTOR

BOX PATENT APPLICATION

Assistant Commissioner for Patents

Washington, D.C. 20231

I, Leonard H. Bieman, hereby declare as follows:

1. I am a citizen of the United States residing at:
32450 Shrewsbury
Farmington Hills, MI 48334, USA.
2. I believe that I am the original, first, and sole inventor of the invention disclosed and claimed in U.S. Patent No. 5,646,733, issued on July 8, 1997, entitled "SCANNING PHASE MEASURING METHOD AND SYSTEM FOR AN OBJECT AT A VISION STATION," and described and claimed in the accompanying application for which I solicit a reissue patent.
3. I have reviewed and understand the contents of the specification and claims of the reissue application, as amended by the Preliminary Amendment filed on July 8, 1998.
4. I do not believe that the invention set forth herein was ever known or used in the United States before the invention thereof by me.
5. I acknowledge the duty to disclose all information known to me which is material to the examination to the reissue application in accordance with 37 C.F.R. § 1.56(a).
6. After reading the opinion of outside patent counsel, I believe the above-identified patent is partially inoperative by reason of claiming less than I, the inventor, had a right to claim in the patent. Such inoperativeness includes particularly the failure to prosecute and obtain claims commensurate with the scope of new claims 28-85 filed in the reissue application.

DECLARATION OF INVENTOR

Application for Reissue of U.S. Patent No. 5,646,733 (Serial No. 08/593,095)

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7. More particularly, I declare that I believe the claims of the patent were determined to be insufficient to protect the invention disclosed in the specification during a review of the 5,646,733 patent by Charles A. Lemaire, outside patent counsel for PPT Vision, Inc. being the assignee of the present invention, beginning in approximately September 1997 a part of an investigation of the patent prior to a license and later purchase of the patent from the original assignee, Medar, Inc., and culminating in the reissue application.
8. U.S. application Serial No. 08/593,095 was filed on January 29, 1996 with twenty-seven claims. The claims were originally rejected under 35 U.S.C. § 103 over Kuchel (5,135,308) in view of Bullock et al. (5,488,478) in a first Office Action mailed 8/13/96.
9. The claims 1 and 14 of U.S. application Serial No. 08/593,095 were amended in an Amendment and Response filed November 12, 1996. The amendment was entered accordingly and the claims as amended issued (some renumbered) as claims 1-27 in U.S. Patent No. 5,646,733.
10. After reading the opinion of outside patent counsel, I now believe that other patentably distinct independent claims are possible for claiming aspects of the invention. The existing independent claims 1 and 14 contain limitations or features which, if eliminated, result in patentably distinct claims. In particular, the requirement of moving at a substantially constant velocity and having substantially uniformly spaced detector elements are unnecessarily limiting and can be deleted without adding new matter.
11. New claim 30 is an independent claim and has eliminated the above-noted limitations present in claim 1, but contains other limitations that make it narrower than the original claim 1. New claim 42 is an independent claim and has eliminated the above-noted limitation present in claim 14, but contains other limitations that make it narrower than the original claim 1. Thus these claims avoid the prohibition against recapture of the same or broader scope of cancelled claims (*Ball Corp. v. United States*, 221 USPQ 289,295 (CAFC 1984)).
12. On information and belief, I further declare that the reasons which render U.S. Patent No. 5,646,733 partially inoperative arose without any fraudulent or deceptive intention on my

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- part, and, as the reissue applicant, upon being informed of the significance of the foregoing facts, I concur in the filing of the reissue application by the assignee.
13. I further declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true, and further, that these statements are made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the reissue application or any patent issuing thereon.

Dated: January 18, 2000
Leonard H. Bieman